



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2020-0589; FRL-10017-39-Region 9

Air Plan Approval; Arizona; Stationary Sources; New Source Review Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Arizona Department of Environmental Quality's (ADEQ) portion of the Arizona State Implementation Plan (SIP). These revisions are primarily intended to make corrections to the ADEQ's SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources under the Clean Air Act (CAA or Act). This proposed action will update the ADEQ's NSR rules in the SIP and correct the remaining deficiencies in the ADEQ's NSR program that we identified in final EPA rulemaking actions in 2015 and 2016. Additionally, we are proposing a finding that the ADEQ's SIP-approved NSR permitting program meets requirements for visibility protection for major NSR sources under the Act and are proposing to remove Federal Implementation Plans (FIPs) related to these requirements. We are seeking comment on our proposed action and plan to follow with a final action.

DATES: Comments must be received on or before [**Insert date 30 days after date of publication in the *Federal Register***].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0589 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which disclosure is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3811 or by email at beckham.lisa@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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DEFINITIONS

For this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.
- (iii) The initials *ARS* mean or refer to the Arizona Revised Statutes.
- (iv) The initials *CBI* mean or refer to confidential business information.
- (v) The initials *CFR* mean or refer to Code of Federal Regulations.
- (vi) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (vii) The initials *FIP* mean or refer to Federal Implementation Plan.
- (viii) The initials *MMBtu/hr* mean or refer to million British thermal units per hour.
- (ix) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.
- (x) The initials *NESHAP* mean or refer to National Emission Standards for Hazardous Air Pollutants.
- (xi) The initials *NNSR* mean or refer to Nonattainment New Source Review.
- (xii) The initials *NO₂* mean or refer to nitrogen dioxide.
- (xiii) The initials *NO_x* mean or refer to oxides of nitrogen.
- (xiv) The initials *NSPS* mean or refer to New Source Performance Standards.
- (xv) The initials *NSR* mean or refer to New Source Review.
- (xvi) The initials *PM_{2.5}* mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 2.5 micrometers (fine particulate matter).
- (xvii) The initials *PSD* mean or refer to Prevention of Significant Deterioration.
- (xviii) The initials *SIP* mean or refer to State Implementation Plan.
- (xix) The initials *SO₂* mean or refer to sulfur dioxide.

(xx) The words *State* or *Arizona* mean the State of Arizona, unless the context indicates otherwise.

(xxi) The initials *TSD* mean or refer to the technical support document for this action, unless the context indicates otherwise.

I. The State's Submittals

A. What did the State submit?

The ADEQ is the governor's designee for submitting official revisions of the Arizona SIP to the EPA. This proposal evaluates three SIP revisions submitted by the ADEQ on March 29 2019¹, January 14, 2020, and July 22, 2020². The submittals include several rules and demonstrations related to the ADEQ's NSR program.

Table 1 of this preamble lists the rules addressed by this proposal with the dates on which they became effective under State law. The ADEQ's January 14, 2020 submittal requested that specific paragraphs from certain revised rules be added to the Arizona SIP. The ADEQ's July 22, 2020 submittal clarifies that the ADEQ requests that the entirety of each revised rule (with one exception) be included in the SIP, rather than only the selected paragraphs identified in the earlier submittal. As such, Table 1 of this preamble reflects the updated rule submission request in the July 22, 2020 submittal. The submitted rules are from the Arizona Administrative Code, Title 18 – Environmental Quality, Chapter 2 – Department of Environmental Quality – Air Pollution Control, Articles 1, 3, and 4.

TABLE 1 - SUBMITTED RULES

Rule	Title	State Effective Date
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1 This submittal was transmitted with a cover letter dated March 20, 2019 from Timothy S. Franquist, Director, Air Quality Division, ADEQ to Michael Stoker, Regional Administrator, EPA Region IX.

2 This submittal was made via the EPA's eSIP submission system – State Plan electronic Collaboration System (SPeCS) for SIPs – on July 22, 2020. A copy of the submission form is available in the docket for this action. Due to an apparent typographical error, the cover letter for the submittal was erroneously dated as July 21, 2017 rather than July 21, 2020. Additionally, an Excel spreadsheet that is part of the submittal but that was not submitted through the SPeCS was submitted to the EPA via email on July 21, 2020. The spreadsheet and transmittal email are also included in the docket for this action.

Rule	Title	State Effective Date
R18-2-101, except (20)	Definitions	2/1/2020 ³
R18-2-301	Definitions	2/1/2020
R18-2-302	Applicability; Registration; Classes of Permits	3/21/2017
R18-2-302.01	Source Registration Requirements	2/1/2020
R18-2-304	Permit Application Processing Procedures	2/1/2020
R18-2-306	Permit Contents	3/21/2017
R18-2-306.01	Permits Containing Voluntarily Accepted Emission Limitations and Standards	3/21/2017
R18-2-317	Facility Changes Allowed Without Permit Revisions - Class I	8/7/2012
R18-2-317.01	Facility Changes that Require a Permit Revision - Class II	8/7/2012
R18-2-317.02	Procedures for Certain Changes that Do Not Require a Permit Revision - Class II	8/7/2012
R18-2-319	Minor Permit Revisions	3/21/2017
R18-2-320	Significant Permit Revisions	3/21/2017
R18-2-334	Minor New Source Review	2/1/2020
R18-2-406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	2/1/2020

On September 29, 2019 and July 14, 2020, the March 29, 2019 and January 14, 2020 submittals, respectively, were determined complete by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On November 17, 2020, the EPA determined that the July 22, 2020 submittal met the completeness criteria in 40 CFR part 51, appendix V.

The proposed SIP revisions will apply to all areas and sources in Arizona for which the ADEQ has permitting jurisdiction. The ADEQ has permitting jurisdiction for the following stationary source categories in all areas of Arizona: smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. The ADEQ also has permitting jurisdiction for major and minor sources in the following counties:

³ We note that this rule contains a new provision stating that a particular revised subsection, R18-2-101(131)(f), will take effect on the effective date of the EPA Administrator's action approving it as part of the Arizona SIP. Therefore, the revised version of R18-2-101(131)(f) would become effective on the effective date of our approval of the current submittal of R18-2-101.

Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma. Finally, ADEQ has permitting jurisdiction over major sources in Pinal County (currently delegated to Pinal County) and any source in Maricopa, Pima, or Pinal County for which the ADEQ asserts jurisdiction.

B. *Are there other versions of the rules in the Arizona SIP?*

Table 2 lists the existing rules in the Arizona SIP that would be superseded or removed from the Arizona SIP as part of our proposed action. If the EPA were to take final action as proposed herein, these rules generally would be replaced in the SIP by the submitted set of rules listed in Table 1 of this document.

TABLE 2 – RULES TO BE SUPERSEDED OR REMOVED

Rule	Title	EPA Approval Date	Federal Register Citation
R18-2-101	Definitions	May 4, 2018	83 FR 19631
R18-2-301	Definitions	November 2, 2015	80 FR 67319
R18-2-302	Applicability; Registration; Classes of Permits	November 2, 2015	80 FR 67319
R18-2-302.01	Source Registration Requirements	November 2, 2015	80 FR 67319
R18-2-304	Permit Application Processing Procedures	November 2, 2015	80 FR 67319
R18-2-306	Permit Contents	November 2, 2015	80 FR 67319
R18-2-306.01	Permits Containing Voluntarily Accepted Emission Limitations and Standards	November 2, 2015	80 FR 67319
R18-2-319	Minor Permit Revisions	November 2, 2015	80 FR 67319
R18-2-320	Significant Permit Revisions	November 2, 2015	80 FR 67319
R18-2-334	Minor New Source Review	November 2, 2015	80 FR 67319
R18-2-406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	May 4, 2018	83 FR 19631
R9-3-217, paragraph A	Attainment Areas; Classification and Standards	April 23, 1982	47 FR 17483

C. *What is the purpose of the submittals?*

On March 29, 2019, the ADEQ submitted a SIP submittal intended to resolve a conditional approval relating to the permitting of fine particulate matter (PM_{2.5}) precursors in

PM_{2.5} nonattainment areas. The ADEQ supplemented the submittal on January 14, 2020 (the March 29, 2019 submittal and January 14, 2020 supplement are collectively referred to hereinafter as the “Ammonia PM_{2.5} NSR submittal”). The January 14, 2020 supplement also included other minor and technical rule revisions to the ADEQ’s NSR program. On July 22, 2020, the ADEQ submitted a SIP revision to address outstanding deficiencies in its NSR program, pertaining primarily to the ADEQ’s minor NSR program, that were identified by the EPA in a final rule action in 2015 (referred to hereinafter as the “2020 Minor NSR submittal”). In the 2020 Minor NSR submittal, the ADEQ also requested that the EPA remove the visibility FIPs at 40 CFR 52.27 and 52.28 as applied to major sources subject to the ADEQ’s permitting jurisdiction, as its SIP-approved NSR program requirements also satisfy the CAA visibility requirements in 40 CFR 51.307.

The EPA’s technical support document (TSD) has more information about the content of these submittals (collectively referred to hereinafter as the “2019-20 NSR submittals”).

II. The EPA’s Evaluation

A. *How is the EPA evaluating the submittals?*

The EPA has reviewed the rules and other materials submitted for SIP approval by the ADEQ that are the subject of this action for compliance with the CAA’s general requirements for SIPs in CAA section 110(a)(2), including 110(a)(2)(A) and 110(a)(2)(E)(i);⁴ the EPA’s regulations for stationary source permitting programs in 40 CFR part 51, subpart I; and the CAA requirements for SIP revisions in CAA section 110(l) and 193.

With respect to procedures, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. The EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These

⁴ CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and CAA section 110(a)(2)(E)(i) requires that states have adequate personnel, funding, and authority under state law to carry out their proposed SIP revisions.

requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

With respect to substantive requirements, we have reviewed the submittals that are the subject of our current action in accordance with the CAA and applicable regulatory requirements, focusing primarily on those that apply to minor NSR programs under 110(a)(2)(C) of the Act, Prevention of Significant Deterioration (PSD) permit programs under part C of title I of the Act, and Nonattainment NSR (NNSR) permit programs under part D of title I of the Act. The 2019-20 NSR submittals are primarily intended to correct the remaining deficiencies in the ADEQ's NSR program that we previously identified in final rule actions, as discussed below, and therefore we reviewed them both to determine whether those corrections had been made and to more generally ensure that the submitted rule revisions comply with the CAA and applicable regulatory requirements. In addition, we reviewed the ADEQ's NSR regulations to determine whether they meet the CAA visibility requirements in 40 CFR 51.307 for sources subject to PSD and NNSR review.

As background, on November 2, 2015 (80 FR 67319), the EPA published a final limited approval and limited disapproval of a 2012 SIP revision submittal to the ADEQ portion of the Arizona SIP (referred to hereinafter as the EPA's "2015 NSR action").⁵ Our 2015 NSR action updated the ADEQ's SIP-approved NSR permitting program, but identified deficiencies that needed to be corrected for the EPA to grant full approval of the ADEQ's NSR program. Thus, our 2015 NSR action triggered an obligation for the EPA to promulgate a Federal Implementation Plan (FIP) to address the deficiencies that were the basis for our limited disapproval action unless the State of Arizona corrected the deficiencies, and the EPA approved the related plan revisions, within two years of that final action. In addition, to avoid sanctions

⁵ We also finalized other actions, which included a partial disapproval related to the fine particulate matter (PM_{2.5}) significant monitoring concentration, and limited approvals, without corresponding limited disapprovals, related to section 189(e) of the Act.

under section 179 of the Act, the ADEQ had 18 months from December 2, 2015, the effective date of our 2015 NSR action, to correct those deficiencies related to part D of title I of the Act.

On June 22, 2016 (81 FR 40525), the EPA also published a separate but related final limited disapproval action for the ADEQ's NNSR program, as the ADEQ's program did not fully address PM_{2.5} precursors as required by section 189(e) of the Act (referred to hereinafter as the EPA's "2016 PM_{2.5} precursor action"). This action triggered an obligation for the EPA to promulgate a FIP to address this deficiency unless the State of Arizona corrected the deficiency, and the EPA approved the related plan revisions, within two years of the final action. In addition, to avoid sanctions under section 179 of the Act, the ADEQ had 18 months from the July 22, 2016 effective date of our 2016 PM_{2.5} precursor action to correct the deficiency as it related to part D of title I of the Act.

On May 4, 2018 (83 FR 19631), the EPA published a final rule approving revisions to the ADEQ's NSR program, primarily related to the PSD and NNSR programs (referred to hereinafter as the "2018 Major NSR action"). The 2018 Major NSR action corrected a substantial portion of the deficiencies identified in our 2015 NSR action and our 2016 PM_{2.5} precursor action. The 2018 Major NSR action also included a conditional approval of the ADEQ's NNSR program related to one specific component of the deficiency identified in our 2016 PM_{2.5} precursor action, discussed in greater detail in Section II.B.5 of this preamble. We note that concurrent with our proposed conditional approval action in 2018, we made an interim final determination that the State of Arizona had satisfied the requirements of part D of the CAA permitting program for areas under the jurisdiction of ADEQ with respect to PM_{2.5} precursors under section 189(e).⁶ The effect of our interim final determination was that the imposition of sanctions that had been triggered was deferred. Following the 2018 Major NSR action, several outstanding deficiencies in the ADEQ's NSR program remained.

The submittals that are the subject of this proposed action are intended to correct the

⁶ See 83 FR 1195 (January 10, 2018) and 83 FR 1212 (January 10, 2018).

remaining deficiencies identified in our 2015 NSR action and the deficiency that formed the basis for our conditional approval in our 2018 Major NSR action, so that the ADEQ's NSR program would be fully approved. In addition, in the 2020 Minor NSR submittal, the ADEQ requested that we remove the visibility FIPs at 40 CFR 52.27 and 40 CFR 52.28, which would result from our determining that the ADEQ's NSR regulations meet the CAA visibility requirements in 40 CFR 51.307 for sources subject to PSD and NNSR review under the ADEQ's permitting jurisdiction. Our analysis focuses on these issues; however, we also reviewed the submitted rules and rule revisions to ensure that they otherwise adhere to the relevant CAA requirements.

For reference, the docket for the present action includes the EPA's TSDs for the 2015 NSR action and the 2018 Major NSR action, a June 22, 2015 EPA memorandum, and the notice of proposed rulemaking for our 2016 PM_{2.5} precursor action. The TSD for our 2015 NSR action, which was prepared in support of the EPA's proposal that preceded our final 2015 NSR action, contains a detailed discussion of the NSR program, its requirements, and the deficiencies we identified in the ADEQ's 2012 NSR SIP submittal. We note that there were several proposed deficiencies discussed in the 2015 TSD that we subsequently determined, in our final action, did not serve as bases for our limited disapproval. The June 22, 2015 EPA memorandum provides the list of deficiencies from our 2015 NSR action that formed the basis for our final limited disapproval of the ADEQ's 2012 NSR SIP submittal, many of which were addressed in our 2018 Major NSR action. Our 2016 PM_{2.5} precursor action did not include a separate TSD; our notice of proposed rulemaking from May 2, 2016 (81 FR 26186) provides our detailed analysis supporting that limited disapproval action.

B. *Do the submittals meet the evaluation criteria for NSR programs?*

Our 2015 NSR action, including our proposed action on March 18, 2015 (80 FR 14044), provides a detailed discussion of the approval criteria for the NSR program and how the ADEQ's NSR rules that we reviewed in that action generally meet the approval criteria despite certain

deficiencies that required correction in order for the EPA to fully approve the ADEQ's NSR program. In this action, we are focusing our review on the revisions that the ADEQ made to correct the remaining deficiencies we identified in our 2015 NSR action and the deficiency that formed the basis for our conditional approval in our 2018 Major NSR action. We also reviewed other revisions the ADEQ made in the 2019-20 NSR submittals to ensure that the revised language is consistent with applicable requirements of the Act and the EPA regulations. In addition, we reviewed the ADEQ's NSR program regulations to determine whether they satisfied the CAA visibility review requirements in 40 CFR 51.307 for sources subject to PSD or NNSR review under the ADEQ's permitting jurisdiction.

We are proposing approval of the 2019-20 NSR submittals because they would correct the remaining deficiencies in the ADEQ's NSR program that we identified in our 2015 NSR action and that formed the basis for our conditional approval in our 2018 Major NSR action, and because they are otherwise consistent with the requirements for NSR programs and the Act. Our detailed analysis of the ADEQ's 2019-20 NSR submittals is provided in the TSD for this action. Below we briefly discuss the remaining previously identified deficiencies that this action, if finalized, would correct.

1. Deficiencies corrected related to required legally enforceable procedures

The ADEQ has corrected deficiencies related to the required legally enforceable procedures for minor NSR permitting programs in 40 CFR 51.160. Most of the corrections were rule revisions and are described below. Additionally, the ADEQ needed to provide a basis for the exclusion of certain stationary sources from its NSR program. Those demonstrations are also described further below.

In our 2015 NSR action, the EPA found that, in some instances, the ADEQ's 2012 NSR submittal did not ensure that a source would not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) in neighboring areas outside the ADEQ's permitting jurisdiction consistent with 40 CFR 51.160(a) and (b). We find that the ADEQ has

corrected this issue by revising the definition for “attainment area” and by revising the ADEQ rules R18-2-302.01, R18-2-334, and R18-2-406 to use terms that reference the NAAQS instead of state standards and clearly apply the NAAQS to neighboring areas. See R18-2-101(19), R18-2-302.01(C), R18-2-334(C)(2) and (F), and R18-2-406(A)(5). The revisions to R18-2-101(19) and R18-2-406(A)(5) were approved into the Arizona SIP in our 2018 Major NSR action. The ADEQ also corrected an issue under 40 CFR 51.160(a) and (b) in R18-2-302.01 by adding a reference to “or maintenance” of a standard, instead of just “attainment of a standard” at R18-2-302.01(C)(4).

In our 2015 NSR action, the EPA found that for sources subject to the ADEQ’s registration program at R18-2-302.01, the 2012 NSR submittal did not demonstrate that the ADEQ’s NSR program met the requirement to ensure that sources subject to NSR review comply with the applicable portions of the control strategy, as required by 40 CFR 51.160(b)(1). The ADEQ has corrected this issue by revising R18-2-302.01(E) accordingly.

As discussed in our 2015 NSR action, the ADEQ’s registration program at R18-2-302.01 did not previously contain enforceable procedures for the owner or operator to submit the necessary information for the ADEQ to determine whether a source will violate the applicable control strategy or interfere with attainment or maintenance of the NAAQS as required by 40 CFR 51.160(c). The ADEQ corrected this issue by revising R18-2-302.01(A)(3) to remove a reference to R18-2-327(C), a rule not in the SIP, and to instead use the term “maximum capacity to emit with elective limits,” which is a newly defined term that is used in conjunction with another newly defined term “maximum capacity to emit.” See R18-2-301(12) and (13). The term that was previously used, “uncontrolled potential to emit,” is no longer defined or used in the ADEQ’s NSR program. We find these revisions and the new definitions for “maximum capacity to emit” and “maximum capacity to emit with elective limits” acceptable.

Previously, the ADEQ’s program did not meet the requirement that the applicant submit information related to the nature and amounts of emissions, for certain kinds of emissions units,

as required by 40 CFR 51.160(c)(1). For Class I and Class II permit applications, R18-2-304 previously allowed sources to avoid providing emissions information for “insignificant activities,” as defined in R18-2-101(68). The ADEQ corrected this issue by revising R18-2-304 to specify that emissions information from insignificant activities must be provided to the extent necessary to determine applicability of the minor and major NSR programs (R18-2-334 and Article 4 of ADEQ’s rules, respectively). See R18-2-304(F)(8).

Previously, for sources subject to the ADEQ’s registration program at R18-2-302.01, the ADEQ’s program did not meet the requirement in 40 CFR 51.160(d) that its procedures provide that approval of construction or modification will not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy. The ADEQ corrected this issue by adding this requirement for sources subject to R18-2-302.01, at R18-2-302.01(I).

The EPA found in our 2015 NSR action that the ADEQ’s registration program at R18-2-302.01 did not meet the requirement to use appendix W to 40 CFR part 51 for air quality modeling as required by 40 CFR 51.160(f)(1). The ADEQ corrected this issue by revising R18-302.01(C) to reference a “screening model,” a newly defined term in revised R18-2-301 that requires the use of appendix W.

In our 2015 NSR action, we found that the ADEQ’s program had several deficiencies related to 40 CFR 51.160(e) because the 2012 NSR SIP submittal did not provide an adequate basis for certain sources that are excluded from the ADEQ’s minor NSR permitting program. 40 CFR 51.160(e) requires the ADEQ to provide a basis for the types and sizes of facilities, buildings, structures, or installations that will be subject to review under 40 CFR 51.160. That is, 40 CFR 51.160(e) allows state minor NSR programs to exclude some new minor sources and minor modifications to the extent they are inconsequential to attainment or maintenance of the NAAQS. We are now proposing approval of the ADEQ’s NSR program under 40 CFR 51.160(e). The demonstrations provided by the ADEQ address: the ADEQ’s NSR permitting exemption thresholds, as they apply in nonattainment areas; the ADEQ’s PM_{2.5} NSR permitting

threshold in attainment and nonattainment areas; the exemption of certain small fuel burning equipment; and the exemption of agricultural equipment used in normal farm operations.

With respect to the minor NSR permitting thresholds, the ADEQ looked at the 2014 National Emissions Inventory for sources in Arizona to determine the percentage of emissions and stationary sources covered by the ADEQ's minor NSR program.⁷ The results show the percentage of stationary sources and emissions expected to be covered by the ADEQ's NSR program as compared to the entire state, areas of the state subject to the ADEQ minor NSR jurisdiction (i.e., all counties except Maricopa, Pima, and Pinal), and the four counties subject to state minor NSR jurisdiction that include nonattainment areas (Cochise, Gila, Santa Cruz, and Yavapai). This updated analysis, the results of which are included in our TSD, shows that the ADEQ's minor NSR program may cover a significantly higher percentage of stationary source emissions than originally determined, including in nonattainment areas.⁸ The ADEQ's updated analysis follows the same approach that the EPA used in developing the minor NSR program for Indian country, which we find acceptable. Additionally, the ADEQ's 2020 Minor NSR submittal contains a discussion of the types of emission sources that largely contribute to nonattainment in the nonattainment areas for which the ADEQ has minor NSR permitting jurisdiction. This discussion shows that minor sources are not currently significant contributors to the nonattainment issues in these areas.

While PM_{2.5} emissions data were not available for the original source distribution analysis in the 2012 NSR SIP submittal, the updated analysis shows that, based on the minor NSR threshold for PM_{2.5}, the ADEQ's NSR program is expected to cover a high percentage of

7 The 2012 NSR SIP submittal used data from only Maricopa County. The ADEQ is not the permitting authority for stationary sources in Maricopa County, which has lower permitting thresholds. The ADEQ explains that Maricopa County is a large urban area that may have many small sources that can contribute to nonattainment areas, but the nonattainment areas for which the ADEQ has minor NSR permitting jurisdiction are significantly different and more rural.

8 The ADEQ's 2012 analysis showed that the ADEQ expected to cover, approximately, between 35% to 80% of emissions through its minor and major NSR programs. See our TSD for the 2015 NSR action, 25, Table 5. The updated analysis in Table 3 of the TSD for this proposed action shows that the ADEQ is expected to cover between 69% to 100% of emissions through its minor and major NSR programs.

emissions in both attainment and nonattainment areas (greater than 95% in nonattainment areas). We find that the ADEQ's minor NSR threshold for PM_{2.5} provides adequate assurance that the sources exempted from regulation under the minor NSR program by the threshold would be inconsequential to attainment and maintenance of the NAAQS.

In our 2015 NSR action, we found that the ADEQ needed to provide an interpretation of the exemption for small fuel burning equipment, rated less than one million British thermal units per hour (MMBtu/hr), in state law at Arizona Revised Statutes (ARS) section 49-426(B), and how it does, or does not, apply in the context of its major and minor NSR programs, and, to the extent such equipment is not subject to NSR review, the ADEQ's basis for determining that equipment exempted under this provision does not need to be reviewed as part of the ADEQ's minor NSR program under 40 CFR 51.160(e). The 2020 Minor NSR submittal explains that only those stationary sources that consist solely of equipment with a cumulative heat input rate of less than 1 MMBtu/hr are eligible for the exemption in ARS section 49-426(B). Because the exemption is only available to those stationary sources that consist solely of fuel burning equipment with a cumulative rating of 1 MMBtu/hr, such sources will already be below the ADEQ's permitting exemption thresholds. Thus, we find this exemption and explanation acceptable.

The 2020 Minor NSR submittal contains a detailed discussion describing the ADEQ's reasoning and analysis for the exemption for agricultural equipment used in normal farm operations in ADEQ rule R18-2-302. See 2020 Minor NSR submittal, 9-13, 24-25. The analysis is summarized here. The State of Arizona exempts "agricultural equipment used in normal farm operations" from the general requirement to obtain a permit. See ARS 49-426(A). The ADEQ implements this exemption in its permitting program by exempting "agricultural equipment used in normal farm operations" from the requirement to obtain a registration or permit at R18-2-302(C). The exemption does not apply if the source is a "major source" or if "operation without a permit would result in a violation of the Act." Additionally, agricultural equipment used in

normal farm operations does not include equipment classified as a source that requires a permit under title V of the Act, or that is subject to a standard under 40 CFR parts 60, 61, or 63.

In our 2015 NSR action, we stated that the ADEQ needed to identify whether “agricultural equipment used in normal farm operations” could potentially be expected to occur at a stationary source subject to title V of the Act, 40 CFR parts 60, 61, or 63, or major NSR, and, if so, whether such equipment is subject to NSR review at such sources. The ADEQ has clarified that the exemption at R18-2-302(C) represents the ADEQ’s interpretation of the agricultural exemption in ARS section 49-426(A) and stated that the “rule has been recognized as valid by the Arizona Attorney General in its opinion supporting the state’s title V program in 1993.”⁹ The EPA deferred to this opinion in approving ADEQ’s title V program in 1996. The ADEQ also clarified that the ADEQ interprets its permitting requirements such that its permitting determinations (including for the registration program) are made on a source-wide basis. For an exemption to apply, all the pollutant-emitting activities within the same stationary source must qualify for the exemption. Therefore, if equipment used in normal farm operations is located at the same stationary source as non-exempt equipment that requires a permit, such as at a major source, a title V source, or a source subject to a standard under 40 CFR part 60, 61, or 63, then permit requirements, and potentially NSR, extend to the entire source, including the equipment used in the farm operations. This also means that the exemption is potentially available only to minor sources.

While the term “normal farm operations” is not specifically defined by statute or rule, the ADEQ finds the State’s Agricultural Best Management Practices (Ag BMP) program for PM₁₀ nonattainment areas provides guidance on the State’s interpretation for the types of activities that constitute normal farm operations, as described under the Ag BMP statute at ARS section 49-457(P)(1). The activities include: tillage, planting, and harvesting; areas of a commercial farm that are not normally in crop production (i.e., fallow); areas of a commercial farm that are

⁹ Attorney General’s Opinion at 2 (November 15, 1993) (Appendix D of the 2020 Minor NSR submittal).

normally in crop production; significant agricultural earthmoving activities; traffic over unpaved access connections or unpaved roads or feed lanes; animal waste handling and transporting; arenas, corrals, and pens; and canals. The ADEQ also interprets the normal farm operations exemption to apply to crop and feed processing equipment that produces only fugitive emissions. We consider all the identified activities to be sources of fugitive emissions.

The ADEQ's current SIP-approved NSR program already exempts fugitive emissions in determining whether a stationary source is subject to minor NSR permitting requirements. See R18-2-302(F). While this exemption does not apply to stationary sources that belong to certain source categories, referred to as "section 302(j) category" sources, normal farm operations are not section 302(j) category sources. See R18-2-101(129). This fugitive emissions exemption for determining minor NSR applicability reflects the same approach that the EPA took for its minor NSR program developed for Indian country. See 40 CFR 49.151 through 49.161, including the definition for "minor source" and "modification" at 40 CFR 49.152. In the ADEQ's experience, the overwhelming majority of normal farm operations would be excluded from permitting on this basis, even if the normal farm operations exemption were not available. Farm emissions tend to consist almost exclusively of fugitive dust generated by the disturbance of soils.

The ADEQ also recognizes that it is possible for equipment used in normal farm operations to be part of a stationary source that produces stack emissions greater than the permitting exemption threshold. In most cases, the ADEQ believes that such a stationary source would not qualify for the exemption. R18-2-302(C) provides that equipment used in normal farm operations "does not include equipment classified as a source that requires a permit under title V of the Act, or that is subject to" an New Source Performance Standard (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP). In addition, permit applicability is determined on a stationary-source-wide basis. Thus, if a stationary source that engaged in normal farm operations qualified as a title V source or included equipment subject to an NSPS or NESHAP, the entire source would require a permit and potentially be subject to minor NSR if its

emissions were above the NSR permitting exemption thresholds. In the ADEQ's experience, most permitted sources include one or more pieces of equipment subject to an NSPS. It is therefore likely that if equipment used in normal farm operations were collocated with equipment with stack emissions exceeding the permitting exemption thresholds, at least some of that equipment would be subject to an NSPS, and the normal farm operations exemption would not apply. Additionally, a source with equipment subject to a NESHAP or a source that qualifies as a title V source would not be exempted.

Finally, the ADEQ stated that under R18-2-302(C), equipment used in normal farm operations is not exempt if "operation [of the equipment] without a permit would result in a violation of the Act," which provides a final safeguard. In the few remaining potential situations where equipment used in normal farm operations is located at a stationary source with stack emissions above the permitting exemption threshold that is not subject to 40 CFR parts 60, 61, 63 or title V, the ADEQ will invoke this provision to ensure that any such source does not endanger attainment or maintenance of the NAAQS or enforcement of the control strategy.

In sum, the ADEQ has demonstrated that its exemption for agricultural equipment used in normal farm operations is extremely limited in scope, and the potential sources exempted from permitting would be inconsequential to attainment and maintenance of the NAAQS. This determination is based on the ADEQ's interpretation of the narrow manner in which the exemption applies, the limited types of operations that are considered to be "normal farm operations," and the ADEQ's retention of authority to address any potentially exempt sources that may endanger attainment or maintenance of the NAAQS or enforcement of the control strategy. We agree that the vast majority of these operations are likely already exempted from the ADEQ's SIP-approved minor NSR program under the general exemption for excluding fugitive emissions in permitting applicability determinations. We find the ADEQ's basis and explanation for the exemption from minor NSR review for agricultural equipment used in normal farm operations to be acceptable.

2. Deficiencies corrected related to public availability of information

In our 2015 NSR action, the EPA identified several deficiencies with the ADEQ's NSR program concerning the requirements related to public availability of information in 40 CFR 51.161. First, the ADEQ's program did not ensure that all minor sources subject to NSR review under the ADEQ's NSR program, as the ADEQ defined it pursuant to 40 CFR 51.160(e), are subject to public notice and comment consistent with 40 CFR 51.161(a). The ADEQ corrected this deficiency by revising R18-2-334 to remove the previous public notice exemption for certain permit applications. Additionally, the 2020 Minor NSR submittal clarifies that the use of the term "construction," as defined in R18-2-101(32), in R18-2-302.01 ensures that modifications to a registered source at or above the permitting exemption thresholds will be subject to public notice. Next, the ADEQ's registration program at R18-2-302.01 previously did not contain sufficient enforceable procedures for sources taking "elective limits" to limit their potential to emit in a manner that allows the source to avoid the public participation requirements in 40 CFR 51.161(a), while otherwise being subject to the registration program. The ADEQ corrected this deficiency by adding additional specificity to how elective limits are set, ensuring that such limits will include the time period over which the limitations apply, and ensuring sufficient recordkeeping to demonstrate compliance. See R18-2-302.01(F).

The ADEQ's NSR program also did not include sufficient public notice procedures for registrations or the proposed disapproval of an application consistent with 40 CFR 51.161(a). The ADEQ revised R18-2-330 to clarify the public notice procedures for registrations and to require public notice for a proposed disapproval of an application. See R18-2-330(A). We approved the revisions to R18-2-330 in our 2018 Major NSR action but did not note in that action that the revisions corrected this deficiency.¹⁰

Finally, in our 2015 NSR action, the EPA identified as a deficiency that the ADEQ's NSR program did not provide notice to the necessary parties identified in 40 CFR 51.161(d) for

¹⁰ A copy of the SIP-approved R18-2-330 is included in the docket for this action.

sources required to obtain registrations under R18-2-302.01. The ADEQ corrected this deficiency by adding this requirement at R18-2-302.01(B)(4).

3. Deficiencies corrected related to administrative procedures

40 CFR 51.163 requires each NSR program to include the administrative procedures that will be followed in reviewing new and modified sources, as specified in 40 CFR 51.160(a). In our 2015 NSR action, we found that the ADEQ's 2012 NSR SIP submittal contained administrative procedures consistent with 40 CFR 51.163; however, not all the procedures referenced in the 2012 NSR SIP submittal were submitted for inclusion into the SIP. The ADEQ corrected this deficiency by submitting R18-2-317, R18-2-317.01, and R18-2-317.02. These rules generally identify the types of changes at Class I and II sources that do or do not require a permit revision and require that projects triggering minor or major NSR review obtain permit revisions in advance. We have reviewed these rules for inclusion in the ADEQ's SIP-approved NSR program and find them acceptable.

4. Resolution of Minor NSR program deficiencies

For the reasons stated above, we propose to find that the 2019-2020 NSR submittals correct all remaining deficiencies in the ADEQ's minor NSR program that were identified in our 2015 NSR action as the basis for our limited disapproval.

5. Resolution of PM_{2.5} NNSR program deficiency

The only outstanding deficiency in the ADEQ's NNSR program identified in our earlier actions relates to the treatment of ammonia as a precursor to PM_{2.5} for the West Central Pinal and Nogales PM_{2.5} nonattainment areas. As background, in 2016, the EPA finalized regulatory requirements for SIPs related to implementing the 2012 PM_{2.5} NAAQS ("2012 PM_{2.5} implementation rule").¹¹ The 2012 PM_{2.5} implementation rule included regulatory requirements that states must adopt in permitting programs in PM_{2.5} nonattainment areas to address the

¹¹ See Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements, 81 FR 58010 (August 24, 2016).

requirements for PM_{2.5} precursors for major stationary sources under section 189(e) of the Act. For purposes of the NNSR program, the EPA specified that PM_{2.5} precursors in PM_{2.5} nonattainment areas include NO_x, VOC, SO₂, and ammonia. See 40 CFR 51.165(a)(1)(xxxvii)(C)(2).

In the EPA's 2016 PM_{2.5} precursor action, we finalized a narrow, limited disapproval action for deficiencies in the ADEQ's NNSR program related to PM_{2.5} precursors in PM_{2.5} nonattainment areas.¹² For PM_{2.5} nonattainment areas, CAA section 189(e) requires that the control requirements applicable under plans in effect under part D of the CAA for major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the EPA determines that such sources do not contribute significantly to PM_{2.5} levels that exceed the standards in the area. In our 2016 PM_{2.5} precursor action, we determined that the ADEQ's 2012 NSR SIP submittal did not fully satisfy the major NNSR requirements for PM_{2.5} under section 189(e) of the Act for the Nogales and West Central Pinal PM_{2.5} nonattainment areas, based on our finding that the submittal did not include rules regulating VOCs or ammonia as PM_{2.5} precursors under the NNSR program, nor did it include a demonstration showing that the regulation of VOCs and ammonia was not necessary under section 189(e).¹³

In our 2018 Major NSR action, we found that the ADEQ's April 28, 2017 SIP revision submittal ("2017 Major NSR submittal"), which mostly pertained to NSR program updates for major sources, contained revisions that updated the ADEQ's NNSR program to address all the deficiencies with that program that were identified in our 2015 NSR action. We also found that the ADEQ's 2017 Major NSR submittal addressed the deficiencies we identified in our 2016 PM_{2.5} precursor action related to PM_{2.5} precursors in PM_{2.5} nonattainment areas, with one exception: we found that the ADEQ's rule revisions did not fully meet the requirements of the

¹² See 81 FR 40525.

¹³ See *id.* Our 2016 proposed action contained a detailed discussion of the ADEQ's PM_{2.5} NSR program and this limited disapproval issue. See Proposed Rule, Limited Disapproval of Air Plan Revisions; Arizona; New Source Review; PM_{2.5}, 81 FR 26185 (May 2, 2016).

2012 PM_{2.5} implementation rule as it relates to ammonia as a PM_{2.5} precursor. Specifically, while the ADEQ's NNSR program included ammonia as a precursor to PM_{2.5}, at R18-2-101(124)(a)(iv), we found that the 2017 Major NSR submittal did not define the threshold at which emissions increases of ammonia are considered "significant" for determining when modifications at existing major sources of ammonia are major modifications subject to NNSR, as required by 40 CFR 51.165(a)(1)(x)(F).¹⁴

Accordingly, while our 2018 Major NSR action approved the rule revisions in the ADEQ's 2017 Major NSR submittal, our action also included a conditional approval with respect to ammonia as precursor to PM_{2.5} emissions in PM_{2.5} nonattainment areas. A December 6, 2017 commitment letter from the ADEQ provided adequate assurance that the remaining NNSR program deficiency related to ammonia as a PM_{2.5} precursor in PM_{2.5} nonattainment areas would be addressed in a timely manner, consistent with CAA section 110(k)(4). Our 2018 Major NSR action conditionally approved the ADEQ's NSR program with respect to ammonia as a PM_{2.5} precursor based on this commitment. The ADEQ's Ammonia PM_{2.5} NSR submittal satisfies the requirements of our conditional approval and corrects this outstanding deficiency.

Specifically, the ADEQ's Ammonia PM_{2.5} NSR submittal includes a rule revision that sets a rate of 40 tons per year as "significant" in reference to the significant emission rate (SER) used to determine those projects that constitute a major modification at major sources of ammonia. See R18-2-101(131)(f). A SER of 40 tpy for ammonia has been approved by the EPA for several other PM_{2.5} nonattainment areas,¹⁵ and the ADEQ set this value in consultation with EPA Region 9. Our approval of the submitted ammonia SER will resolve the remaining deficiency that formed the basis for our conditional approval in our 2018 Major NSR action, and therefore we are proposing to remove the conditional approval language from 40 CFR 52.119(a),

¹⁴ See 83 FR 19631.

¹⁵ For example, the EPA has approved an ammonia SER of 40 tpy for Alleghany County, Pennsylvania (85 FR 36161, June 15, 2020); Knox County, Tennessee (83 FR 46880, September 17, 2018); Imperial County, California (84 FR 44545, (August 26, 2019); and Los Angeles – South Coast Air Basin, CA (83 FR 61551, November 30, 2018).

as the condition has been met. We also note that the sanctions and sanctions clocks triggered by our 2016 PM_{2.5} precursor action, as discussed in Section II.A of this preamble, would be permanently terminated on the effective date of our final approval of the Ammonia PM_{2.5} NSR submittal.¹⁶

6. Resolution of PSD program deficiency

In our 2015 NSR action, we determined that the ADEQ had adopted the PSD increments, or maximum allowable increases, in R18-2-218 – *Limitation of Pollutants in Classified Attainment Areas*, but noted that in other rules, the ADEQ used the terms “increment” or “incremental ambient standard” where it appeared the intent was to refer to the standards established in R18-2-218 and identified in the ADEQ’s rules as the “maximum allowable increases.” The ADEQ’s April 2017 NSR submittal included corrections to these provisions, which now consistently refer to these maximum allowable increases. See R18-2-406(E), R18-2-412(G)(2)(b), R18-2-101(51). However, we noted in our 2018 Major NSR action that the ADEQ needed to also correct this issue in R18-2-319(A)(3) and R18-2-320(B)(6). While the ADEQ had revised these rules to address this issue, these rules were not included in the April 2017 NSR submittal. The 2020 Minor NSR submittal contains R18-2-319 and R18-2-320 with the necessary corrections. Thus, we find that this deficiency identified in our 2015 NSR action has been fully addressed.

7. Additional revisions made to the ADEQ’s NSR program

In 2017, the EPA finalized revisions to the Guideline on Air Quality Models at Appendix W of 40 CFR part 51.¹⁷ The revisions became effective on May 22, 2017.¹⁸ The ADEQ updated its NSR program to reference 40 CFR part 51, appendix W as of June 30, 2017 in R18-2-301, R18-2-334, and R18-2-406. The updated cross-reference in these ADEQ rules to 40 CFR part 51, appendix W incorporates the latest revisions to the Guideline on Air Quality Models. Our

¹⁶ See 83 FR 19631, 19633, 19634 (May 4, 2018).

¹⁷ 82 FR 5182 (January 17, 2017).

¹⁸ 82 FR 14324 (March 20, 2017).

proposed approval of R18-2-301, R18-2-334, and R18-2-406 will ensure that the ADEQ portion of the Arizona SIP is updated to incorporate these new revisions.

In addition to the other revisions discussed above, the ADEQ has made other minor revisions and updates to some of the submitted rules that have not yet been approved into the Arizona SIP. Two final rule actions completed by the ADEQ, which are included in the docket for this action, show the specific revisions that have been made to the rules in the 2019-20 NSR submittals. In the ADEQ's February 10, 2017 final rule, see revisions to R18-2-301, R18-2-302, R18-302.01, R18-304, R18-2-306, R18-2-306.01, R18-2-319, R18-2-320, and R18-2-334. In the ADEQ's December 20, 2019 final rule, see revisions to R18-2-101, R18-2-301, R18-2-302.01, R18-2-304, R18-2-334, and R18-2-406. We have reviewed each of the changes and determined that they are acceptable and do not create any new disapproval issues. The changes generally relate to correcting typographical errors, clarifying rule language, and moving permit application requirements from an appendix to R18-2-304.

C. *Evaluation of rules requested to be removed from the SIP*

Table 2 of this preamble identifies the rules, or portions thereof, that the ADEQ has requested to be removed from the Arizona SIP, and which we are proposing in this action to remove from the Arizona SIP. All but one of these rules will be replaced by the newer rules in the 2019-20 NSR submittals that are the subject of our current action. Except for R9-3-217, paragraph A, the rules we are proposing to replace are older versions of the rules in the 2019-20 NSR submittals. The older versions contained deficiencies that the ADEQ needed to correct, or language that the ADEQ otherwise determined needed to be updated to enhance the ADEQ's program or to ensure that it meets new requirements. The removal of these older rules would not relax any requirements in the Arizona SIP. For the reasons stated above, we find the removal of these rules from the SIP to be acceptable and we propose to approve the ADEQ's request to remove these rules from the SIP.

D. *Approval of program for visibility protection in Class I areas*

The ADEQ's 2020 Minor NSR submittal requests that the EPA remove the FIPs at 40 CFR 52.145(b) related to visibility protection in Class I areas at 40 CFR 51.307, as they pertain to major stationary sources for which the ADEQ has PSD or NNSR jurisdiction. The relevant substantive visibility FIP requirements that currently apply to such sources are found at 40 CFR 52.27 (PSD sources) and 40 CFR 52.28 (NNSR sources). These FIPs were established for sources subject to the ADEQ's PSD and NNSR programs because the EPA had not approved the ADEQ's visibility program under 40 CFR 51.307. Approval of the ADEQ's visibility program under 40 CFR 51.307 would mean that these FIPs are no longer needed to satisfy the CAA visibility program requirements at 40 CFR 51.307 for sources subject to the ADEQ's PSD and NNSR programs. The evaluation in Attachment 1 to our TSD for this action includes the results of our review from 2017 of how the ADEQ's NSR program rules meet each of the required elements for CAA visibility programs in 40 CFR 51.307. Based on our review, we have determined that the ADEQ's PSD and NNSR program rules satisfy the requirements of 40 CFR 51.307, and we are proposing to approve the ADEQ's SIP-approved NSR rules as meeting those requirements. In conjunction with our SIP approval of ADEQ's visibility program for major sources subject to review under the PSD and NNSR programs, we also propose to revise the applicability of the visibility FIPs at 40 CFR 52.27 and 40 CFR 52.28 as they pertain to Arizona at 40 CFR 52.145(b), as these FIPs will no longer apply to sources subject to review under ADEQ's PSD and NNSR programs. This revision will clarify the application of these FIPs in Arizona following our final action.

We note that the visibility FIP at 40 CFR 52.28 would continue to apply to sources within Arizona subject to review under the CAA NNSR program that are or would be located on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Similarly, the FIP at 40 CFR 52.28 would also remain in place for sources in Arizona subject to review under the Pima County Division of Environmental Quality's SIP-approved NNSR program. The EPA has previously approved the visibility review

requirements in the Maricopa County Air Quality Department's SIP-approved NNSR program as satisfying the requirements in 40 CFR 51.307. See 84 FR 13543 (April 19, 2019). We also note that for sources within Arizona subject to PSD review that are or would be located on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, the FIP at 40 CFR 52.27 would not apply; rather, the PSD FIP at 40 CFR 52.21 that otherwise applies to such sources¹⁹ includes requirements that fully address the visibility program requirements at 40 CFR 51.307.

E. *Do the rules meet the evaluation criteria under Sections 110(a)(2)(A), 110(a)(2)(E)(i), 110(l) and 193 of the Clean Air Act?*

CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable. We have determined that the rules listed in Table 1 of this preamble are clear and legally enforceable and therefore satisfy this requirement.

CAA section 110(a)(2)(E)(i) requires SIPs to provide "necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof)." In the EPA's recent actions on Arizona's Infrastructure SIP for the 2010 nitrogen dioxide (NO₂) and 2010 sulfur dioxide (SO₂) NAAQS, we conducted a detailed evaluation of Arizona legal authorities that provide for the ADEQ's implementation and enforcement of CAA requirements related to that Infrastructure SIP, as well as information showing that the ADEQ has adequate funding and personnel to implement the relevant CAA SIP requirements, and approved that SIP submittal with respect to CAA section 110(a)(2)(E)(i).²⁰ Accordingly, the

¹⁹ See 40 CFR 52.144(a) and (b).

²⁰ See 83 FR 42214 (September 20, 2018); including "Technical Support Document for Notice of Final

ADEQ has provided the necessary assurances that the ADEQ will have adequate personnel, funding, and authority under State law to carry out the proposed revisions to the ADEQ's SIP, consistent with CAA section 110(a)(2)(E)(i).

Section 110(l) states: "Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter." With respect to the procedural requirements of CAA section 110(l), based on our review of the public process documentation included in the submittal, we find that the ADEQ has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision and has satisfied these procedural requirements under CAA section 110(l). With respect to the substantive requirements of section 110(l), we have determined that our action on the 2019-20 NSR submittals would, as described herein, strengthen the applicable SIP. This action is primarily intended to correct numerous deficiencies in the ADEQ's NSR program and provides other revisions to enhance and update the program. Accordingly, this action will not interfere with attainment and reasonable further progress, or any other applicable requirement.

Section 193 of the Act, which was added by the Clean Air Act Amendments of 1990, includes a savings clause which provides, in pertinent part: "No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant." We find that the provisions included in 2019-20 NSR submittals would ensure equivalent or greater emission reductions as compared to the current

SIP-approved NSR program in the nonattainment areas under ADEQ's jurisdiction. Further, this action does not modify any pre-1990 requirements applicable to nonattainment areas. For the reasons set forth above, our proposed approval of the 2019-20 NSR submittals is consistent with section 193 of the Act.

F. *Conclusion*

As discussed in detail above, we propose to find that the ADEQ has corrected all remaining deficiencies identified as the bases for limited disapproval in our 2015 NSR action and the basis for our conditional approval in our 2018 Major NSR action. In addition, we reviewed all other changes the ADEQ made to its NSR program in the submitted rules for consistency with CAA requirements to ensure that no new disapproval issues have been created. With the corrections and demonstrations discussed above, our prior limited disapproval in 2015 and conditional approval in 2018 will become a full approval of the ADEQ's minor NSR program, PSD program, and NNSR program, and we are proposing full approval of the 2019-20 NSR submittals. The new and revised rules evaluated herein meet the applicable CAA requirements. Our proposed action would have the effect of updating the ADEQ's SIP-approved NSR program and correcting previously identified deficiencies and recognizing that the ADEQ's NSR program requirements also satisfy the CAA visibility requirements in 40 CFR 51.307.

III. **Public Comment and Proposed Action**

Pursuant to section 110(k)(3) of the CAA and for the reasons provided above, the EPA is proposing to approve the revisions to the ADEQ portion of the Arizona SIP that govern the issuance of permits for stationary sources, under section 110(a)(2)(C) of the Act and parts C and D of title I of the Act. Specifically, the EPA is proposing to approve the new and amended ADEQ regulations listed in Table 1 of this preamble, as a revision to the ADEQ portion of the Arizona SIP. In addition, the EPA is proposing to remove the existing SIP-approved rules listed in Table 2 of this preamble. Further, for the West Central Pinal and Nogales PM_{2.5} nonattainment areas, the sanctions and sanctions clock triggered by our 2016 PM_{2.5} precursor action under CAA

section 179 would be permanently terminated on the effective date of our final approval of the Ammonia PM_{2.5} NSR submittal. Finally, we are also proposing that the ADEQ's SIP-approved program meets the visibility requirements in 40 CFR 51.307 for NSR programs and are proposing to remove the existing visibility FIPs for sources subject to review under the ADEQ's SIP-approved PSD or NNSR permitting program. We are proposing this action because we find that the 2019-20 NSR submittals meet the applicable requirements under parts C and D of title I of the CAA, and that our action is consistent with sections 110(a)(2), 110(l) and 193 of the Act.

We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we take final action to approve the 2019-20 NSR submittals, our final action will incorporate the identified rule(s) into the federally enforceable SIP.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ADEQ rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Sulfur dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: December 8, 2020.

John Busterud,
Regional Administrator,
Region IX.

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